

Remarks

In the Specification

Applicant respectfully submits the following changes to be made in the application, on page 6, line 4 and page 7, line 2, “slop” should read “slope”. On page 6, line 8 “400” should
5 read “401”.

Rejection Under 35 USC 112

Claims 4-14 stand rejected under 35 USC 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the inventive subject matter.

10 Applicant has cancelled Claims 4-9 making traverse of the examiner’s rejections to those specific claims moot.

With respect to Claims 10-14, Claims 11-14 stand rejected since they depend on Claim 10. Claim 10 is rejected because its original language was unclear as to how the transition is exponential to a constant thickness. Per the Interview Summary, Examiner and Applicant have agreed that the
15 Once Amended Claim language presented here, in its unaltered format as presented as proposed amendment language for the Interview is sufficient to overcome the rejection. The amend language clearly describes the structure of the inner wall of the lid of the present invention. Withdrawal of the rejection is respectfully requested.

With respect to claims 11-14, which stand rejected under 35 USC 112, second paragraph for
20 claiming an increased thickness in degrees. The amended claim language agreed upon by Examiner, still includes “said linear rate creating an interior protrusion is between 10 degrees and 20 degrees”, as it has now been clarified that “degrees” is defined as the angular measurement of the slope of one portion of the interior wall as illustrated in Figure 4 of the present invention. Withdrawal of the rejection is respectfully requested.

Rejections Under 35 USC 102

Claims 1-3 stand rejected under 35 USC Section 102(b) as being as being described previously and anticipated in view of *Shapiro* (U.S. 1,093,735) hereafter referred to as '735.

5 Applicant has cancelled Claims 1-3 making traverse of the examiner's rejections moot.

Rejections Under 35 USC 103

Claims 1-5, 7-11, and 13-14 stand rejected under 35 USC Section 103(a) as being unpatentable over McLaren et al. (US 4,407,426) hereafter referred to as '426 in view of

10 Hopkins (US 3,966,082) hereafter referred to as '082.

With respect to Claims 1-5, 7-9, and 11-14 Applicant has cancelled Claims 1-5 and 7-9 making traverse of the examiner's rejections to those specific claims moot.

With respect to Claim 10, Court decisions have establish that a prima face case of obviousness is established when an examiner provides:

- 15 1. one or more references
 2. that were available to the inventor and
 3. that teach
 4. a suggestion to combine or modify the references,
20 5. the combination or modification of which would appear to be sufficient to have made
 the claimed invention obvious to one of ordinary skill in the art.

Accordingly, an Applicant who is able to prove that the Examiner has failed to establish any one of these elements will prevent the prima facia case of obviousness form being established.

25 In the Examiner's first set of § 103 rejection to Claims 10-11, and 13-14, the Examiner combines '426 and '082. Alleging that '426 teaches all element of the present invention found in Claim 10 except a tab on the side of the body, Applicant respectfully disagrees.

Claim 10 requires the following elements to be taught:

- a. a body having a bottom wall and a side wall;
- b. said side wall having an interior surface and exterior surface, the interior surface of the wall defining the opening;
- 5 c. said body consisting of a tab positioned on the side of the body;
- d. the defining opening created by the body, side wall, and bottom defining a round opening.;
- e. an interior wall with recessed and protruding areas;
- 10 f. said interior wall thickness increases at a linear slope rate from the opening toward the bottom of the base lid and defining a protrusion at a small radial arc, said interior wall thickness then decreases at a linear rate defining an angular slope toward the exterior wall, and then remains at a constant wall thickness until the base wall is reached;
- 15 g. said linear rate creating an interior protrusion is between 10 degrees and 20 degrees.

Applicant concedes the elements a-e and g are taught by '426 as cited by examiner in the office action, but respectfully disagrees that element f in its entirety is taught by '426. Examiner claims that '426 teaches "the interior wall becomes thicker at a linear rate of 15 degrees" citing col. 3, lines 27-29 of '426, which then becomes exponentially thicker at 32 to a constant thickness at 30. Examiner is correct that both '426 and the present invention share a similar inner wall surface form the opening as it initially begins to extend toward the bottom of the lid, but the similarity ends there. The prior art teaches a "shoulder" at 32 (see Col. 3, lines 47 and 52), but does not teach nor suggest a radial arc. The prior art does not teach nor suggest a radial arc.

A close inspection of Figures 3 and 4 of '426 show no illustration of a radial arc, but illustrate a "shoulder that intersects or transitions at a 90 degree angle of the shoulder at 32.

Conversely, the present invention specifically illustrates and claims a radial arc for this transition and the amended claim language of Claim 10 specifically requires a radial arc. Upon closer
5 inspection of Figure 4, it is clear, in the absence of text to teach otherwise, that '426 only teaches or considers a lid where the shoulder at 32 transitions at a 90 degree angle.

No suggestion to combine or modify the references. There is no visual or written citation or suggestion in either '426 or '082 that suggest modifying the inner wall shape to specifically include a radial arc for the transition of the protruding area of the inner wall.

10 The protrusion taught by '426 fails, with its sharp "shoulder" fails in use in several ways. First, a sharp shoulder or protrusion makes lid attachment and removal difficult by requiring more force to f remove a rolled edge contain from the lid. A radial arc reduces the force necessary for removal. Secondly, a sharp edge as taught by '426 is often catches on the edge of a rolled edge container and causes the lid to be broken, torn, or pierced during removal.

15 Withdrawal of the rejection is respectfully requested.

Comments Regarding New Claims Submitted for Consideration

Applicant has also included a New Claim 15 in further attempts to narrow the claim language of the present invention in view of the cited prior art by presenting a combination claim
20 as suggested by Examiner during the Interview. New Claim 15 further limits the claimed invention to a combination of a container with a rolled edge bottom and lid for placement on the *bottom* of the container. Specifically, New Claim 15 requires that the lid engage the *bottom* portion of the container in such a manner that the *bottom* portion of the rolled container *bottom*

surface and the inner surface of the lid have interlocking surface regions that provide means for the lid remaining in place on the *bottom* portion of the container until addition force is applied to forcefully remove the lid from the *bottom* portion of the container.

New Claim 10 is specifically for placing the lid on the *bottom* of a container with a rolled edge, and NOT on the top or container end that has an opening. If Examiner finds not prior art to reject this claim, but feels the claim has any 112 issues, Examiner is invited to contact Applicant to discuss amended claim language so that an amendment can be filed so a notice of allowance can be issued.

Conclusion

For all the reasons advanced above, Applicant respectfully submits that the application is in condition for allowance and that action is earnestly solicited.

In the event that an extension of time is required, or may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely.

Respectfully submitted,

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